

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0359P

Adjusted Gross Income Tax
Fiscal Year Ended 04/30/96

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1; 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

II. **Tax Administration** – Interest

Authority: IC 6-8.1-10-1

Taxpayer protests the interest assessed.

STATEMENT OF FACTS

Taxpayer was audited for fiscal years 1996 through 1998. Upon audit it was discovered the taxpayer failed to add back state income tax, real estate tax, and part of the personal property tax for 1996. The taxpayer properly added back these taxes for 1997 and 1998.

Taxpayer's CPA protests the penalty because the instruction booklet for filing the corporate return, page 5 Lines 4,5, and 6 state in part to add back "all **local** real estate and personal property taxes and all charitable contributions which were **deducted** when calculating the net taxable income on the federal tax return. The CPA states that the real estate taxes were Florida taxes for a division of the corporation.

I. **Tax Administration** – Penalty

DISCUSSION

Taxpayer was assessed a penalty upon Audit for failing to add back state income tax, real estate tax, and part of the personal property tax for 1996.

Taxpayer's argument is that the instruction booklet states "local" taxes are to be added back. Taxpayer, however, did not apportion its income as required for the Florida division. Taxpayer was given the opportunity to amend its filing but chose not to.

Taxpayer was negligent in failing to add back all taxes as required by IC 6-3-2-3.5(b).

FINDING

Taxpayer's protest is denied.

II. Tax Administration – Interest

DISCUSSION

Taxpayer protests the imposition of interest.

The department has no authority to waive interest.

FINDING

Taxpayer's protest is denied.